110TH CONGRESS
2D SESSION

S. 3413

To achieve access to comprehensive primary health care services for all Americans and to improve primary care delivery through an expansion of the community health center and National Health Service Corps programs.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2008

Mr. SANDERS (for himself, Mr. OBAMA, Mrs. CLINTON, Mr. KENNEDY, Mr. BROWN, Ms. MIKULSKI, Mr. CASEY, Mrs. BOXER, Mr. DURBIN, and Mr. INOUYE) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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A BILL

To achieve access to comprehensive primary health care services for all Americans and to improve primary care delivery through an expansion of the community health center and National Health Service Corps programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Access for All America Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Providing health coverage for all Americans will be incomplete if access to services is not improved.

(2) Currently, almost 60,000,000 Americans, both insured and uninsured, have inadequate access to primary care due to a shortage of such physicians and other like providers in their community.

(3) Several demonstrations are underway at the Federal and State levels to link patients to a primary care ''medical home'' as a means of assuring access, controlling costs, and improving quality.

(4) Yet, there already exists a proven medical home model that accomplishes these goals and has done so over the past 40 years while serving over 17,000,000 Americans.

(5) Community health centers, also known as Federally Qualified Health Centers (FQHCs), have been found to more than pay for themselves by providing coordinated, comprehensive medical, dental, behavioral health, and prescription drug services that reduces unnecessary emergency room visits, ambulatory-sensitive hospitalizations, and avoidable specialty care.

(6) The result is that the American Academy of Family Practitioners' Robert Graham Center found

that medical expenses for health center patients are 41 percent lower compared to patients seen elsewhere, an average savings of $1,810 per person per year.

(7) The Lewin Group found that providing access to a medical home for every American would produce health care savings of $60,700,000,000 per year, more than 7 times the subsidy needed to sustain the 1,100 current health centers and to create 3,700 new health centers to accomplish full access.

(8) Hand-in-hand with the expansion of the community health center program, a renewed investment in the National Health Service Corps is essential to reverse the decline in the supply of primary care physicians and dentists.

(9) Both the expansion of the community health center program and the investment in the National Health Service Corps can be accomplished for less than 1 percent of total health care spending today.

(10) Finally, to encourage the broader adoption of the cost-effective community health center model of care beyond underserved areas and populations and to encourage the pursuit and practice of primary care as a career, all willing primary care practitioners should be provided with incentives and sup-

port to organize as community health center practices.

SEC. 3. FEDERALLY QUALIFIED HEALTH CENTER (FQHC) OPERATING SUPPORT.

(a) IN GENERAL.—The Secretary of health and Human Services (referred to in this Act as the ''Secretary)'', acting through the Administrator of the Health Resources and Services Administration, shall award grants to eligible entities to carry out activities under operating plans submitted under section 5.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) be a public or nonprofit private entity that in fiscal year 2009, was certified by the Secretary as a federally qualified health center (including a recipient of a grant under section 330 of the Public Health Service Act (42 U.S.C. 254b), or an Urban Indian Clinic or Indian Tribal Health Clinic);

(2) comply with the general requirements of section 4; and

(3) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an operating plan in accordance with section 5.

(c) CONVERSION OF EXISTING PRIMARY CARE PRACTICES TO FQHC STATUS.—

(1) IN GENERAL.—A medical practice that is organized solely for the purpose of providing primary care (family medicine, general internal medicine, pediatrics, or general obstetric and gynecological services that are furnished by physicians and, where appropriate, physician assistants, nurse practitioners, and nurse midwives) shall be eligible for designation as a federally qualified health center under section 1861(aa)(4)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(4)(B)) if such practice—

(A) is organized as a nonprofit private entity; and

(B) meets the requirements of section 4.

(2) LOCATION.—An entity described in paragraph (1) shall not be required to be located in a medically underserved area.

(3) LIMITATION.—An entity that is designated as a federally qualified health center under paragraph (1) shall not be eligible for grants under this Act unless such entity complies with the requirements of this Act, including serving areas that are designated as medically underserved areas or populations.

SEC. 4. GENERAL REQUIREMENTS.

(a) SERVICE AREA.—To be eligible to receive a grant under section 3, an entity shall agree to provide services to designated medically underserved populations within the service area of the entity.

(b) REQUIRED SERVICES.—

(1) IN GENERAL.—To be eligible to receive a grant under section 3, an entity shall provide (directly or through contracts or cooperative agreements) all of the required services described in paragraph (2).

(2) REQUIRED SERVICES.—Required services described in this paragraph shall include—

(A) basic health services (services of health professionals, diagnostic lab and radiology services, preventive health services, emergency health services, dental services, and pharmaceutical services);

(B) referrals to providers of medical and other health-related services;

(C) patient case management services (as defined for purposes of the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

(D) required enabling services (which may include transportation, community and patient

outreach, patient education, and translation services).

(3) ADDITIONAL SERVICES.—

(A) IN GENERAL.—An entity that receives a grant under section 3 may provide any additional services that are approved by the Secretary for inclusion in the operating plan of the entity under section 5.

(B) TYPE OF SERVICES.—Additional services under this paragraph may include any item or service covered under the Medicare, Medicaid, or SCHIP programs (under titles XVIII, XIX, or XXI of the Social Security Act), except for inpatient hospital or psychiatric services, extended or intermediate care or nursing facility services, residential mental health services, environmental health services, and other enabling services not otherwise required in this subsection.

(c) AVAILABILITY OF SERVICES.—

(1) IN GENERAL.—To be eligible to receive a grant under section 3, an entity shall agree to make its services available and accessible (subject only to capacity limitations) to all individuals residing in the service area of the entity in a manner that assures

continuity, except that this subsection shall not apply to entities that serve only migrant or seasonal farmworkers, homeless individuals, or Indians.

(2) ACCESSIBILITY.—To be eligible to receive a grant under section 3, an entity shall agree to carry out activities designed to make services and care accessible to all homeless persons, residents of public housing, and individuals with HIV, tuberculosis or other communicable disease who are located within the entity's service area.

(d) GOVERNING BOARDS.—To be eligible to receive a grant under section 3, an entity shall have a governing board—

(1) a majority of whose members are receiving services through the entity, except that such requirements shall not apply to an entity that is operated by an Indian tribe or tribal organization;

(2) that meets at least quarterly;

(3) that establishes general policies for the operations of the entity;

(4) that selects the director of the entity; and

(5) that approves the entity's operating plan and application for funds under section 3.

(e) QUALITY ASSURANCE PROGRAM AND SYSTEM.—To be eligible to receive a grant under section 3, an entity

shall agree to maintain an ongoing quality assurance program and systems to protect the confidentiality of patient records.

(f) REFERRAL RELATIONSHIP.—To be eligible to receive a grant under section 3, an entity shall agree to maintain an ongoing referral relationship with one or more hospitals.

(g) ACCOUNTING.—To be eligible to receive a grant under section 3, an entity shall agree to comply with all Federal accounting procedures related to the funding received by such entity under this Act.

(h) FEE AND DISCOUNT SCHEDULES, PARTICIPATION IN PROGRAMS.—To be eligible to receive a grant under section 3, an entity shall agree to—

(1) establish a fee schedule that is consistent with locally prevailing rates for similar services;

(2) establish a schedule of discounts for patient payments that is based on their ability to pay;

(3) participate as a provider of services in the Medicare and Medicaid program under title XVIII and XIX of the Social Security Act, and under any other Federal or State health insurance program; and

(4) attempt to bill and collect payments for services provided through the entity from patients

(with discounts) and from all third-party payers (without discounts).

(i) NONDENIAL OF SERVICES.—To be eligible to receive a grant under section 3, an entity shall agree to not deny its services to any individual for failure to pay.

(j) CULTURAL CONTEXT.—To be eligible to receive a grant under section 3, an entity shall agree to provide its services in the most appropriate cultural context for its patients.

(k) REPORT.—To be eligible to receive a grant under section 3, an entity shall agree to submit in a timely manner all reports required under this Act concerning the activities of the entity under this grant, including reports on expenditures, utilization patterns, availability and acceptability of services, and its use of excess program income.

(l) CONTINUITY OF CARE.—To be eligible to receive a grant under section 3, an entity shall agree to continue to provide services to any medically underserved populations in its service area, and continue meeting all other requirements of this section during the period of the grant.

SEC. 5. OPERATING PLANS.

(a) IN GENERAL.—To be eligible to receive a grant under section 3, an entity shall submit, together with its

application under section 3(b)(3), a proposed operating plan that meets the requirements of this section for the fiscal year involved.

(b) REQUIREMENTS.—The proposed operating plan under subsection (a) shall—

(1) include a complete operating budget for the entity, including budgeting for the costs of—

(A) providing or arranging for all required services and any additional services the entity has received approval to provide;

(B) recruiting, training, and compensating all employees of the entity;

(C) administering the entity (including the cost of meeting all requirements, and the cost of participating in one or more health plans); and

(D) carrying out any off-site activities involved in providing or arranging for the required and additional services in its operating plan;

(2) describe the purposes for which the entity intends to expend amounts received under the grant;

(3) include a projection of the total amount that the entity expects to receive during the fiscal year as payments for the services it provides; and

(4) in the case of an entity that is a public entity that does not have governing boards that fully comply with section 4(d), include an agreement to provide non-Federal matching funds in an amount equal to at least 50 percent of the operating budget of the entity.

(c) ADDITIONAL BUDGETARY INFORMATION.—In addition to the information required in the proposed operating plan under subsection (b)(1), an entity may provide its proposed expenditures for—

(1) providing new additional services for which the entity is seeking approval;

(2) expanding the capacity of the entity to serve new patients;

(3) developing and operating school-based clinics, mobile clinics, satellite clinics, or off-site locations;

(4) capital costs (including facilities and equipment), subject to this Act; and

(5) any other allowable costs.

(d) MODIFICATIONS TO PLAN.—The Secretary may approve modification to the operating plan or budget of an entity during a fiscal year if requested by the entity, and shall approve any such requested modifications that do not involve an increase in grant funds or that do not

compromise the availability or accessibility of services provided through the entity.

SEC. 6. AMOUNT OF GRANTS.

(a) NEGOTIATIONS.—

(1) IN GENERAL.—Prior to approving the application of an eligible entity under section 3(b)(3), the Secretary shall enter into negotiations with such entity with respect to the operating plan and budget contained in the application for the fiscal year involved.

(2) REQUIREMENTS.—In conducting negotiations under paragraph (1), the Secretary shall—

(A) develop and utilize criteria for determining whether the requested expenditures of an entity may be included in a entity's plan and budget, and whether any limitations will apply to such expenditures;

(B) permit all proposed expenditures that are allowable under part 413 of title 42, Code of Federal Regulations (relating to determination of allowable costs for purposes of federally qualified health center reimbursement under Medicare and Medicaid under titles XVIII and XIX of the Social Security Act), except that no

caps may be placed on any allowable expenditures; and

(C) provide a written explanation of any determinations concerning whether a requested expenditure—

(i) is or is not allowable;

(ii) is limited in any way; and

(iii) is denied and, if the denied expense is for a requested additional service, whether the Secretary believes that the services is or is not needed by the center's patients.

(3) CRITERIA.—The criteria developed under paragraph (2)(A) shall ensure that the entity to which such criteria are applied will be reasonably and efficiently administered, taking into account the cost of recruiting and providing competitive compensation to staff (including health professionals), the higher costs of operating entities in rural or urban areas, the higher cost of serving a population with greater health risks or more severe health conditions, and the higher cost of participating in health professions training programs.

(b) ALLOWABLE CAPITAL COSTS.—

(1) IN GENERAL.—For purposes of subsection (a)(2)(B), allowable capital costs shall include the costs of repaying loans, as well as loan guarantees or interest subsidies, for the acquisition, expansion, modernization, or construction (but only if construction is the only available mechanism) of buildings or for the purchase of equipment.

(2) FEDERAL INTEREST.—The Federal Government shall maintain an interest in any facility or equipment that is purchased, expanded, modernized, or constructed with Federal funds (in whole or in part) under this Act. Such Federal interest may be subordinated or waived if such subordination or waiver will further the objectives of this Act.

(c) AMOUNT.—The amount of grant awarded to an entity under this Act shall, subject to section 7, be equal to the amount by which the approved allowable costs of the entity (as determined by the Secretary based on the application and plan submitted by the entity) exceed the approved projection of payments that the entity expects to receive during the fiscal year as payments for the services provided by the entity during such year.

(d) NON-GRANT FUNDS.—Except as otherwise provided in this Act, the Secretary shall not restrict the expenditure by an entity of non-grant funds as provided for

in the operating plan and budget of the entity, so long as such funds are expended for purposes that are consistent with this Act.

(e) RECONCILIATION.—If, at the end of a fiscal year, the sum of the amount of the grant awarded to an entity under this Act for the fiscal year and the actual non-grant income of the entity exceeds the entity's costs in carrying out the approved operating plan for the year, the entity may retain such excess amount so long as the entity agrees to use such excess amount to—

(1) expand and improve services;

(2) increase the number of individuals served by the entity;

(3) purchase equipment;

(4) acquire, expand, modernize, or construct facilities;

(5) improve the administration of the entity;

(6) establish financial reserves;

(7) carry out health professions training programs; or

(8) develop approvable health center-controlled networks.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this Act such sums as may be necessary for each of fiscal years 2009 through 2015.

(b) NATURE OF GRANT.—With respect to the purposes for which a grant under section 3(a) is authorized to be expended, modifications in such purposes enacted after the date of the enactment of this Act shall not affect the amount of appropriations authorized under subsection (a) for any fiscal year.

(c) ALLOCATIONS FOR UNANTICIPATED NEEDS.—

(1) IN GENERAL.—Of the amount appropriated for each fiscal year under subsection (a), the Secretary shall reserve 2 percent of such amount for awarding grants to any grantees under this Act that, in the determination of the Secretary, has a need for such a grant to assist the grantee in responding to unanticipated needs for required services or additional services that have arisen in the service area of the grantee, or in responding to other unanticipated circumstances that have arisen in the provision by the grantee of required services or additional services.

(2) ALLOCATION OF UNOBLIGATED AMOUNTS.—With respect to amounts that are reserved under paragraph (1) for a fiscal year and that are unobligated as of September 30 of such fiscal year (referred to in this paragraph as the ''unobligated balance''), the Secretary shall pay to each grantee under this Act, from such unobligated balance, an amount equal to the product of such balance and the percentage constituted by the ratio of the amount of the grant for the fiscal year for such grantee under this Act to the sum of the total amount of grants under this Act for the year. The amount paid to such grantee under the preceding sentence shall be considered by the Secretary to be part of the grant made for such fiscal year to the grantee under section 3.

SEC. 8. NATIONAL HEALTH SERVICE CORPS.

Section 338H(a) of the Public Health Service Act (42 U.S.C. 254q(a)) is amended to read as follows:

''(a) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this subpart, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2009 through 2015.''.

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